

CALIFORNIA CONSTITUTION

ARTICLE XIX. MOTOR VEHICLE REVENUES

(Note: In the material that follows, Article XIX is serving as a conceptual template for desired constitutional and statutory changes. Some of the proposed new provisions that follow would be placed in the constitution, and some in statutes, in the latter case probably with specified thresholds for that must be met [such as a two-thirds vote] for legislated changes to them, or restricted to change only by popular vote. Parameters for change will probably depend on the specifics of each statutory section.)

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SECTION 1. (a) Revenues from taxes imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(1) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.

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(2) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services.

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(b) As used in this article, "motor vehicle fuels" means gasoline, diesel, natural gas, and hydrogen.

SEC. 2. Revenues from fees and taxes imposed by the State upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes: (a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

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(b) The purposes specified in Section 1 of this article. <Funds from the registration of vehicles – the Motor Vehicle Account – are to be used for DMV and CHP, and subject to legislative budgeting for that purpose. Funds not used for such purposes shall be appropriated to transportation.>

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SEC. 3. The California Transportation Commission, or its successor, shall provide for the allocation of the revenues to be used for the purposes specified in Section 1 of this article in a manner which ensures the continuance of existing statutory allocation formulas for cities, counties, and areas of the State, until the Legislature determines that another basis for an

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equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in [paragraph \(2\) of subdivision \(a\)](#) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall provide for the allocation of these revenues, together with other similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, [county transportation plans](#), regional transportation plans, and the California Transportation Plan.

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SEC. 4. Revenues allocated pursuant to Section 3 may not be expended for the purposes specified in [paragraph \(2\) of subdivision \(a\)](#) of Section 1, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of such revenues in an election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The [California Transportation Commission, or its successor](#), may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal and interest on voter-approved bonds issued for the purposes specified in [paragraph \(2\) subdivision \(a\)](#) of Section 1.

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SEC. 5. The [California Transportation Commission, or its successor](#), may authorize up to 25 percent of the revenues available for expenditure by any city or county for the purposes specified in [paragraph \(1\) of subdivision \(a\)](#) of Section 1 of this article to be pledged or used for the payment of principal and interest on voter-approved bonds, [notes, certificates of participation, or other indebtedness](#) issued for such purposes.

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· (a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.¶
· (b) That any amount loaned is to be repaid in full to the fund from which it was borrowed within three fiscal years from the date on which the loan was made and one of the following has occurred:¶
· (1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.¶
· (2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, adjusted for the change in the cost of living and the change in population, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year

SEC. 6. The tax revenues designated under this article may not be loaned to the General Fund. Nothing in this section prohibits the [California Transportation Commission, or its successor](#), from authorizing loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as described by this subdivision shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account [\[plus 100 basis points\]](#), or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.

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SEC. 7. This article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes.

SEC. 8. Notwithstanding Sections 1 and 2 of this article, any real property acquired by the expenditure of the designated tax revenues by an entity other than the State for the purposes authorized in those sections, but no longer required for such purposes, may be used for local public park and recreational purposes.

SEC. 9. Notwithstanding any other provision of this Constitution, the Legislature, by statute, with respect to surplus state property acquired by the expenditure of tax revenues designated in Sections 1 and 2 and located in the coastal zone, may authorize the transfer of

the property, for a consideration at least equal to the acquisition cost paid by the State to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands.

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As used in this section, "coastal zone" means "coastal zone" as defined by Section 30103 of the Public Resources Code as such zone is described on January 1, 1977.

SEC. 10. The tax on gasoline and diesel for use in motor vehicles upon public streets and highways in effect on the operative date of this section shall continue to be imposed until changed by the California Transportation Commission, or its successor. The commission, or its successor, shall have the authority to impose a tax on motor vehicle fuels for use in motor vehicles upon public streets and highways. The rate of taxation on natural gas and hydrogen shall not exceed the equivalent BTU rate of gasoline. The commission, or its successor, will conduct a study to be completed no later than June 30th of every odd-numbered year to determine whether a quantifiable need exists to adjust the rate of taxation, taking into account changes in the consumer price index, the California Highway Construction Cost index, the number and characteristics of vehicles registered in California, California's registered drivers and total population, total vehicle miles traveled, and other related factors, in order to provide sufficient funding for the research, planning, construction, improvement, maintenance, and operation of public streets and highways and public mass transit guideways (and their related public facilities for nonmotorized traffic). The commission may adjust the rate of taxation no more than once every two years, and may not increase the rate of taxation in excess of that identified need. The Board of Equalization, or its successor, shall collect and administer the tax in the same manner as it collects and administers the taxes on gasoline and diesel on the operative date of this section. The adjustment will take effect within 90 days of approval by the commission unless the Legislature passes legislation, by an affirmative vote of ¾ of each house within 60 days of the rate adjustment and the bill receives the signature of the Governor, that voids all or part of said adjustment based on a legislative finding that the economic impact of the increase outweighs the need for additional transportation investment.

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ARTICLE XIXA. LOANS FROM THE PUBLIC TRANSPORTATION ACCOUNT OR LOCAL TRANSPORTATION FUNDS

SECTION 1. The funds in the Public Transportation Account in the State Transportation Fund, or any successor to that account, may not be loaned to the General Fund. Nothing in this section prohibits the California Transportation Commission, or its successor, from authorizing loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article for any purpose for which the funds may be used. Any loan authorized as described by this subdivision shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account [plus 100 basis points], or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.

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 . (a) That any amount loaned is to be repaid in full to the account during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.¶
 . (b) That any amount loaned is to be repaid in full to the account within three fiscal years from the date on which the loan was made and one of the following has occurred:¶
 . (1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.¶
 . (2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year

SEC. 2. (a) As used in this section, a "local transportation fund" is a fund created under Section 29530 of the Government Code, or any successor to that statute.

(b) All local transportation funds are hereby designated trust funds.

(c) A local transportation fund that has been created pursuant to law may not be abolished.

(d) Money in a local transportation fund shall be allocated only for the purposes authorized under Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code and Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code, as those provisions existed on October 1, 1997. Neither the county nor the Legislature may authorize the expenditure of money in a local transportation fund for purposes other than those specified in this subdivision.

ARTICLE XIXB. MOTOR VEHICLE FUEL SALES TAX REVENUES AND TRANSPORTATION IMPROVEMENT FUNDING

SECTION 1. (a) All moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

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(b) (1) For the 2004-05 to 2007-08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated by the California Transportation Commission, or its successor, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

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(2) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated by the California Transportation Commission, or its successor, as follows:

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(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purpose set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) The transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may not be suspended.

SEC. 2. The tax imposed on the operative date of this section under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of gasoline and diesel shall continue to be imposed until changed by the California Transportation Commission, or its successor. The commission, or its successor, shall have the authority to impose a sales and use tax on motor vehicle fuels, as defined in Article XIX, for use in motor vehicles upon public streets and highways under the Sales and Use Tax Law. The commission, or its successor, will conduct a study to be completed no later than June 30th of every odd-numbered year to determine whether a quantifiable need exists to adjust the rate of taxation, taking into account changes in the consumer price index, the California Highway Construction Cost index, the number and characteristics of vehicles registered in California, California's registered drivers and total population, **total vehicle miles traveled**, and other related factors, in order to provide sufficient funding for the research, planning, construction, improvement, maintenance, and operation of public streets and highways and public mass transit guideways (and their related public facilities for nonmotorized traffic). The commission may adjust the rate of taxation no more than once every two years, and may not increase the rate of taxation in excess of that identified need. *The adjustment will take effect within 90 days of approval by the commission unless the Legislature passes legislation, by an affirmative vote of 3/4 of each house within 60 days of the rate adjustment and the bill receives the signature of the Governor, that voids all or part of said adjustment based on a legislative finding that the economic impact of the increase outweighs the need for additional transportation investment.* The Board of Equalization shall collect and administer the tax in the same manner as other sales and use taxes.

ARTICLE XIXC. TRANSPORTATION FUNDING AND ADMINISTRATION

SECTION 1. All revenues designated in Articles XIX (1), XIXA, and XIXB, revenues received from the federal government, any other types of revenues that are deposited into the Mass Transit Revolving Account, Public Transportation Account, Motor Vehicle Account, **<primarily for DMV and CHP so we need to add appropriate section and leave those funds largely under legislative control.>** State Highway Account, Transportation Revolving Account, Traffic Congestion Relief Fund, and Transportation Investment Fund on July 1, 2004, and revenues in the Transportation User Fee Facilities Revolving Trust Fund, are hereby appropriated to the California Transportation Commission, or its successor, without regard to fiscal year, for any purpose for which those revenues may be used, to the extent that those revenues are not encumbered on the date this section becomes operative.

SEC. 2. (a) Notwithstanding Section 12 of Article IV, the California Transportation Commission, or its successor, shall be solely responsible for approving and enforcing budgets for the revenues designated in Section 1 of this article and their allocation. *The Commission shall adopt, by May 30th of even-numbered years, a biennial budget covering the next two fiscal years and based on its adopted State Transportation Improvement Program, for its operations and for*

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 . (1) The Governor has issued a proclamation that declares that the transfer of revenues pursuant to subdivision (a) will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State.¶
 . (2) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues pursuant to subdivision (a), provided that the bill does not contain any other unrelated provision

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the Department of Transportation. Any budget for a program or project shall be implemented consistent with Part 5.3 (commencing with Section 14500) of Division 3 of Title 2 of the Government Code. Part 5.3 (commencing with Section 14500) of Division 3 of Title 2 of the Government Code, or any of its provisions, may be amended only by a bill passed by a rollcall vote, four-fifths of the membership of each house concurring. <These provisions address CTC institutional structure and related matters. The provision allowing for legislated change will need to be discussed . . . >

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(b) The California Transportation Commission, or its successor, shall be solely responsible for approving and enforcing its own budget and the budget of the Department of Transportation, or its successor.

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[SEC. 3. The California Transportation Commission created by Chapter 1 (commencing with Section 14500) of Part 5.3 of Division 3 of Title 2 of the Government Code is hereby continued in existence and the composition of its membership, terms of office, and appointing authority shall be governed by chapter as it read on July 1, 2004, with the following modifications: terms of office shall be for six years, and shall be staggered, with three terms expiring every two years.] <This section would make the CTC permanent absent a constitutional amendment to change its status.>

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ARTICLE XIXD. TRANSPORTATION DELIVERY AND FINANCING

SECTION 1. State, regional and local governmental entities, including the California Transportation Commission and the Department of Transportation, or their successors, may receive or solicit proposals and enter into public-private partnership agreements with private entities, for any or all of the following activities: planning, financing, designing, constructing, operating, and maintaining public streets and highways and public mass transit guideways. In selecting private entities with which to enter into these agreements, a state, regional, or local governmental entity may utilize, but not be limited to, one or more of the following procurement methods: pre-qualification and short-listing of proposers prior to final evaluation of proposals; final evaluation of proposals based on qualifications, "best value," or both; payment of stipends to unsuccessful proposers; and negotiations with proposers prior to award. Terms of these agreements may include allocations of liability, risk, and responsibility; the power to impose and set user fees; and any other terms that are necessary or desirable to attract private investment.

SEC. 2. (a) Notwithstanding any other provision of this Constitution or any other law, the California Transportation Commission, or its successor, shall have the authority to incur indebtedness, including bonds, notes, certificates of participation, or other obligations, to finance or refinance the costs of the design, acquisition, construction and mitigation of projects and programs. The indebtedness shall be authorized by the California Transportation Commission, or its successor, and may be sold at public or private sale upon such terms and conditions as are determined by it without the approval of the Treasurer. Indebtedness authorized by this section shall be payable solely from revenues subject to expenditure by the California Transportation Commission, or its successor.

(b) (1) Except as provided in paragraph (2), in no event shall the total amount of indebtedness outstanding subject to the pledge of revenues in any fund or account which may be expended by the California Transportation Commission, or its successor, exceed ten percent

(10%) of five-year State Transportation Improvement Program capital budget for those revenues.

(2) The limit imposed by paragraph (1) may be exceeded to the extent that the debt is payable from revenues generated by tolls or user fees if (i) the revenues commence not later than two years from the date the debt is incurred, (ii) the revenues are at least 1.5 times the amount of the debt service, and (iii) the total amount of the debt does not exceed 20% of the capital budget.

SEC. 3. Notwithstanding any other provision of this Constitution or any other law, the California Transportation Commission, or its successor, shall have the sole responsibility for entering into any state contracts for the research, planning, construction, improvement, maintenance, and operation of public streets and highways and public mass transit guideways (and their related public facilities for nonmotorized traffic) and state contracts for goods or services, and shall not be subject to the supervision of any other state agency with respect to these contracts. The California Transportation Commission, or its successor, shall not be subject to the supervision of any other state agency. The Department of Transportation, or its successor, and the Department of the California Highway Patrol, or its successor, shall be subject only to the supervision of the California Transportation Commission, or its successor.

ARTICLE XIXE. TOLL AUTHORITY; TOLL FACILITIES REVOLVING TRUST FUND

SECTION 1. The Transportation User Fee Facilities Revolving Trust Fund is hereby created in the State Treasury as a revolving fund to provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways, including the costs of any necessary design and the costs of acquiring rights-of-way. Money in the fund may be used to provide participation by the State in the payment of a portion of the costs of constructing, operating, and maintaining publicly-owned toll roads and other transportation facilities subject to a user fee, and other public transportation projects.

SEC. 2. The California Transportation Commission, or its successor, may impose transportation tolls or user fees for the use of any part of the state transportation system. These transportation tolls or user fees may be imposed for any period of time it deems necessary. Tolls and user fees may vary based on vehicle class or vehicle weight or other criteria, and may vary by time of day or year. Revenues in excess of amounts used to operate and maintain any facility subject to a toll shall be deposited in the State Highway Account, the Transportation User Fee Facilities Revolving Trust Fund, or both.

The following additional provisions would be included in the Constitution or statutes as appropriate, and are identified conceptually here for ease of discussion:

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- **The Director and Chief Legal Counsel of Caltrans would be appointed by the Commission, or its successor, would serve on a contractual basis with annual performance and compensation reviews of each by the commission;**
- **Caltrans employees would remain members of PERS and retain civil service standing, although classification and management of Caltrans personnel would be moved into the Department from the State Personnel Board;**

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- **Section XIXD, Sec. 3 allows “any” contracts. If necessary, insure that contracts for right of way services are included within this definition.**

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